IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3500 of 2000
to
FIRST APPEAL No 3503 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPN

Versus

INDER HOTELS PVT LTD

Appearance:

MR KIRIT I PATEL for Petitioner

MR SUNIT S SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 20/02/2001

COMMON ORAL JUDGEMENT (Per : MR.JUSTICE M.R.CALLA)

1. These First Appeals u/s 411 of the Bombay Provincial Municipal Corporation Act, 1949, have been filed by the Ahmedabad Municipal Corporation against Inder Hotels Pvt. Ltd. are directed against the judgment and order dated 28.4.2000 passed in Municipal Valuation Appeal No. 1690 of 1995 by the Small Causes Court No.5 at Ahmedabad for the year 1994-95; order dated 28.4.2000 in Municipal Valuation Appeal No. 742 of 1996 for the year 1995-96, order dated 28.4.2000 in Municipal Valuation Appeal No. 937 of 1998 for the year 1997-98 and order dated 28.4.2000 in Municipal Valuation Appeal No. 4137 of 1998 for the year 1998-99 respectively. Whereas the contest between the parties id on the identical points in all these four matters, we propose to decide all these 4 appeals by this common judgment and order as under .

2. These Municipal Valuation Appeals were decided by the Small Causes Court No.5 at Ahmedabad in respect of the premises bearing M.C.No. 578 TPS-3 and Tenement No. 7229-044-00-0001-T situated at Ellisbridge-B. The respondent Inder Hotels Pvt. Ltd. had challenged the GRV fixed by the Municipal Corporation for the years 1994-95, 1995-96, 1997-98 and 1998-99. The Small Causes Court while deciding these Municipal Valuation Appeals, relied upon the Valuation Report, while the author of these valuation reports is not a Government valuer and the author of the report was not examined by the respondent. Mr. Sunit S. Shah has appeared for the respondent herein at the threshold of the argument and has submitted that since the valuer has not been examined and the Municipal Corporation did not get an opportunity to cross-examine the valuer, the respondent is ready to examine this valuer in each of these four Appeals on a fixed date before the Small Causes Court and the appellant herein may cross-examine such valuer on such date. Whereas the matters are required to be remanded to the Small Causes Court on this count alone, we do not find it necessary to deal with the other points which have been raised in these Appeals and all such points will be open to be considered in the future proceedings, if necessary. It may also be made clear that it will also be open for the Municipal Corporation to make a proper application before the Small Causes Court u/s 409 of the Bombay Provincial Municipal Corporation Act, 1949 for appointment of any expert valuer other than the one who has been tendered in evidence by the respondent herein and in case the court finds it necessary, on such

application such expert valuer may also be examined.

3. In all these four Appeals for the years 1994-95, 1995-96, 1997-98 and 1998-99 the impugned orders dated 28th April, 2000 are hereby quashed and set aside and the matters are remanded to the Small Causes Court for reconsideration of the Municipal Valuation Appeals in question, afresh in accordance with law. The respondent shall produce the author of the valuation report for examination before the court on a fixed date and adequate and reasonable opportunity shall be given to the appellant herein for cross-examining such valuer and it will also be open for the Small Causes Court to consider any application which may be moved by the Municipal Corporation u/s 409 of the Bombay Provincial Municipal Corporation Act and to pass appropriate orders thereon and proceed accordingly. All these four Appeals are partly allowed to the extent as above with no order as to costs.

4. It is expected that the Small Causes Court shall give some priority to these four remanded Appeals and to decide the same preferably within a period of six months from the date the certified copy of this order is produced before the court by either of the parties.

(M.R. Calla,J.)

(J.R. Vora, J.)

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